

AMENDED IN SENATE AUGUST 23, 2012

AMENDED IN SENATE JUNE 20, 2012

AMENDED IN ASSEMBLY MAY 2, 2012

AMENDED IN ASSEMBLY APRIL 16, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1647

Introduced by Assembly Member Gordon

February 13, 2012

An act to amend Sections 42843, 42844, 42845, 42847.5, 42851, 42852, 42853, 42854, 42872, 42873, 42885.5, 42950, 42952, and 42960 of, to add ~~Section~~ *Sections 42957, 42961.1, and 42961.7* to, and to repeal and add ~~Section~~ *Sections 42841 and 42961* of, the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1647, as amended, Gordon. Solid waste: waste tires: enforcement.
~~Existing~~

(1) *Existing* law requires, upon the order of the Department of Resources Recycling and Recovery, a person who stores, stockpiles, or accumulates waste tires in violation of the provisions regulating the storage, stockpiling, or accumulation of waste tires to clean up those waste tires and abate the effects of the waste tires or take other necessary remedial actions in the case of threatened pollution or nuisance. Existing law requires the Attorney General, at the request of the department, to petition the appropriate superior court for the issuance of an injunction if the person fails to comply with the cleanup or abatement order. Existing law authorizes, at the request of the department, the district

attorney or county counsel of the county in which the violation occurred to petition the court for the issuance of an injunction if the Attorney General fails to petition the court within 45 days of the department's request to the Attorney General.

This bill would require the department to include additional requirements in an order issued to a person operating an unpermitted waste tire facility and would specify procedures for the issuance of an injunction to the operators of both permitted and unpermitted waste tire facilities. The bill would shorten that time period to 30 days within which the Attorney General must petition the court for the issuance of an injunction at the request of the department, or the department may use the above-described alternative process. The bill would require the department to include, in the order a condition, that the department perform inspections at the location of the violation that are in addition to those inspections otherwise required.

(2) Existing law authorizes the department to refuse to issue or renew a waste tire facility permit on specified grounds.

This bill would repeal that authorization. The bill would authorize the department to reject a waste tire facility permit application if, at the time the application is submitted to the department, the department finds the operator of the waste tire facility has exceeded the amount of waste tires allowed onsite.

~~Existing~~

(3) Existing law authorizes the department, subject in some cases to a formal administrative adjudicative hearing, to revoke, suspend, or deny a waste tire facility permit if the department makes specified findings.

This bill would, instead, authorize the department to revoke, suspend, or deny a waste tire facility permit for up to 3 years if, the department serves a statement of issues, and if the applicant or permitholder takes specified actions. The bill would require the department to notify the applicant for, or the holder of, the permit of a violation, and, upon receipt of a notice of defense, schedule a hearing before the Director of Resources Recycling and Recovery. The bill would require the hearing to be conducted pursuant to a specified informal hearing procedure, but would authorize the department to conduct the hearing pursuant to, or convert the hearing to be conducted pursuant to, the formal administrative adjudicative hearing procedures.

~~Existing~~

(4) *Existing* law authorizes the department to issue and serve an administrative complaint to a person on whom civil liability is imposed for a violation of law regulating waste tire facilities. Existing law requires the department to inform the person served that a formal administrative hearing will be held within 60 days of service unless the person waives his or her right to a hearing.

This bill would, instead, require the department to serve an administrative accusation on the person. The bill would require the department to schedule an administrative hearing before the director within 15 days of receipt of a notice of defense to the administrative accusation. The bill would require the director to issue, within 60 days of the submission of the case, an order setting the amount of civil penalty to be imposed, if any.

(5) *The California Tire Recycling Act (act) requires a person who purchases a new tire to pay a California tire fee, for deposit in the California Tire Recycling Management Fund, for expenditure by the Department of Resources Recycling and Recovery, upon appropriation by the Legislature, for programs related to the disposal of waste tires. The act provides the tire recycling program may include the awarding of grants and loans for various purposes related to reducing landfill disposal of used whole tires and tire recycling. The program also specifies that the activities eligible for funding include the manufacture of specified products made from used tires.*

This bill would additionally include, in the tire recycling program, the issuance of subsidies and rebates for those purposes for which grants and loans may be issued and the development and implementation of a waste tire incentive payment program. The bill would additionally include, as eligible for funding, the manufacture of certain other products made from used tires.

Existing

(6) *Existing* law authorizes the department to revoke, suspend, or deny a waste and used tire hauler registration if the department makes specified findings. Existing law authorizes an applicant for the registration to request a hearing if the application is denied.

This bill would instead authorize the department to take those actions if the applicant for, or holder of, the registration takes specified actions. The bill would authorize a holder of the registration to request a hearing upon the revocation or suspension of the registration. The bill would require the department to notify the applicant for, or the holder of, the registration of the revocation, suspension, or denial and the effective

date of the revocation, suspension, or denial and serve a statement of issues to the applicant for, or the holder of, the registration. The bill would require the department to conduct a hearing before the director. The bill would provide that the revocation or suspension remain in effect until the hearing is completed and the department has made a final determination on the merits. The bill would provides that the revocation or suspension is of no further effect if the department fails to transmit the determination within 60 days of the submission of the case. The bill would require hearings regarding the registration of tire haulers to be conducted pursuant to a specified informal hearing procedure, but would authorize the department to conduct the hearing pursuant to, or convert the hearing to be conducted pursuant to, the formal administrative adjudicative hearing procedures. *This bill would require, following the issuance of a final decision following that hearing, that the department perform specified additional inspections, to be reimbursed by the person who is the subject of the order.*

(7) *The act requires the department to adopt a 5-year plan, which is to be updated biennially, to establish goals and priorities for waste tire programs.*

This bill would require a tire broker, who would be defined as a person arranging for the shipment of used or waste tires to or from a site located within the state, or through the state, to register with the department, using an application approved by the department that includes specified information. The bill would require a tire broker to submit periodic information to the department on tires arranged to be shipped to, from, or through the state, and would require the department to specify the schedule for the submitting of that information and the manner in which the information would be provided to the department. The bill would make a conforming change to the 5-year plan, with regard to the registration of tire brokers.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 42841 of the Public Resources Code is
- 2 repealed.
- 3 ~~42841. The board may refuse to issue or renew a waste tire~~
- 4 ~~facility permit on any grounds for which it may suspend or revoke~~
- 5 ~~a permit.~~

1 *SEC. 2. Section 42841 is added to the Public Resources Code,*
2 *to read:*

3 42841. (a) *In addition to the authority specified in Section*
4 *42843, the department may reject a waste tire facility permit*
5 *application if, at the time the application is submitted to the*
6 *department, the department finds the operator of the waste tire*
7 *facility has exceeded the amount of waste tires allowed onsite*
8 *pursuant to Section 42808.*

9 (b) *If the department rejects an application pursuant to this*
10 *section, the department may prohibit the operator of the waste tire*
11 *facility from reapplying for a waste tire facility at the same location*
12 *for one year, or a lesser amount of time, from the date of the*
13 *application.*

14 **SECTION 1.**

15 *SEC. 3. Section 42843 of the Public Resources Code is*
16 *amended to read:*

17 42843. (a) The department may revoke, suspend, or deny a
18 waste tire facility permit for a period of up to three years, by
19 serving a statement of issues, by personal service or certified mail,
20 in accordance with Section 42852, if the applicant for, or holder
21 of, the permit, does any of the following:

22 (1) The applicant ~~misrepresented~~ *misrepresents* or ~~failed~~ *fails*
23 to disclose material factual information in its application.

24 (2) The operator of the waste tire facility, at any time during
25 the previous three years, fails to comply with an order regarding
26 compliance subsequent to receiving a notice of violation, for any
27 of the following:

28 (A) A violation of this chapter or the regulations adopted
29 pursuant to this chapter.

30 (B) A violation of Chapter 19 (commencing with Section 42950)
31 or the regulations adopted pursuant to that chapter.

32 (C) The terms or conditions of the operator's waste tire facility
33 permit.

34 (b) If the department determines that a violation specified in
35 paragraph (2) of subdivision (a) demonstrates a chronic, recurring
36 pattern of noncompliance that poses, or may pose, a significant
37 risk to public health and safety or the environment, or if the
38 violation has not been corrected or reasonable progress toward
39 correction has not been achieved, the department may suspend,
40 revoke, or deny a waste tire facility permit, in accordance with the

1 procedure specified in subdivision (a), for a period of not more
2 than five years.

3 (c) If the department determines that a violation specified in
4 paragraph (2) of subdivision (a) has resulted in significant harm
5 to human health or the environment, the department may suspend,
6 revoke, or deny a waste tire facility permit, in accordance with the
7 procedure specified in subdivision (a), for a period of five years
8 or longer.

9 (d) The department shall notify the applicant for, or the holder
10 of, the permit of the revocation, suspension, or denial of the permit
11 and the effective date of the revocation, suspension, or denial. A
12 revocation or suspension issued pursuant to this section shall
13 remain in effect until the hearing is completed and the director
14 issues a decision.

15 (e) Upon receipt by the department of a notice of defense to the
16 statement of issues from the applicant for, or the holder of, the
17 permit, the department shall, within 15 days, schedule a hearing
18 before the director. The hearing shall be held within 90 days of
19 the scheduling date, unless a later date is agreed to by both the
20 department and the applicant for, or the holder of, the permit.

21 (f) After conducting the hearing, the director shall, within 60
22 days after the case is submitted, issue a decision, including an
23 order setting forth the issuance, suspension, revocation, or denial
24 of the permit. If the decision is not issued within this period, the
25 revocation or suspension shall be of no further effect.

26 ~~SEC. 2.~~

27 *SEC. 4.* Section 42844 of the Public Resources Code is
28 amended to read:

29 42844. (a) The department may immediately suspend any
30 permit issued pursuant to this chapter if the department determines
31 that the action is necessary to prevent or mitigate an imminent or
32 substantial endangerment to the public health or safety or the
33 environment.

34 (b) The department shall notify the holder of the permit of the
35 temporary suspension and the effective date thereof and, at the
36 same time, shall serve the person with an accusation.

37 (c) Upon receipt by the department of a notice of defense to the
38 accusation from the holder of the permit, the department shall,
39 within 15 days, set the matter for a hearing, which shall be held

1 as soon as possible, but not later than 30 days after receipt of the
2 notice.

3 (d) The suspension shall remain in effect until the hearing is
4 completed and the department has made a final determination on
5 the merits, which shall be made within 60 days after the completion
6 of the hearing. If the determination is not transmitted within this
7 period, the suspension shall be of no further effect.

8 ~~SEC. 3.~~

9 *SEC. 5.* Section 42845 of the Public Resources Code is
10 amended to read:

11 42845. (a) (1) A person who stores, stockpiles, or accumulates
12 waste tires at a location for which a waste tire facility permit is
13 required pursuant to this chapter, or in violation of the terms and
14 conditions of the permit, the provisions of this chapter, or the
15 regulations adopted under this chapter, shall, upon order of the
16 department, clean up those waste tires or abate the effects of the
17 waste tires, or, in the case of threatened pollution or nuisance, take
18 other necessary remedial action.

19 (2) *If the order issued by the department pursuant to this*
20 *subdivision is issued to a person operating a waste tire facility*
21 *that has not been issued a waste tire facility permit, the department*
22 *shall require the person operating the facility to remove all waste*
23 *and used tires from the site and prohibit the person operating the*
24 *facility from accepting any additional waste or used tires at the*
25 *site for a specified time period.*

26 (b) *The department shall include in an order issued pursuant*
27 *to subdivision (a), a condition that the department shall perform*
28 *inspections at the location of the violation that are in addition to*
29 *those inspections otherwise required by this chapter or by any*
30 *regulations adopted pursuant to this chapter, for a period of up*
31 *to one year following the date of the issuance of the order, at a*
32 *frequency determined by the department. The person who is the*
33 *subject of the order shall reimburse the department for the cost of*
34 *the additional inspections conducted pursuant to this subdivision,*
35 *including the cost of preparing for the inspection, traveling to and*
36 *from the inspection, and writing up the inspection reports, at the*
37 *same amounts that are determined annually and approved for*
38 *enforcement agents to be charged by the department for purposes*
39 *of the enforcement of this chapter.*

40 ~~(b) (1) Upon failure of a person~~

1 (c) *If a person operating a waste tire facility pursuant to a waste*
2 *tire facility permit fails to comply with the a cleanup or abatement*
3 *order issued pursuant to subdivision (a), the Attorney General, at*
4 *the request of the department, shall petition the superior court for*
5 *that county for the issuance of an injunction requiring the person*
6 *to comply with that order. In a suit, the court shall have jurisdiction*
7 *to grant a prohibitory or mandatory injunction, either preliminary*
8 *or permanent, as the facts may warrant.*

9 ~~(2) If the Attorney General declines, or is unable, to petition the~~
10 ~~appropriate superior court for issuance of an injunction within 30~~
11 ~~days from the department's request, pursuant to paragraph (1), the~~
12 ~~district attorney or county counsel of that county may, at the~~
13 ~~department's request, petition the superior court for issuance of~~
14 ~~the injunction specified in paragraph (1).~~

15 (d) *If a person operating an unpermitted waste tire facility fails*
16 *to comply with a notice of violation issued for a violation of this*
17 *chapter or any regulations adopted pursuant to this chapter, the*
18 *Attorney General, at the request of the department, shall petition*
19 *the superior court for that county for the issuance of an injunction*
20 *requiring the person to comply with that order. In any suit, the*
21 *court shall have jurisdiction to grant a prohibitory or mandatory*
22 *injunction, either preliminary or permanent, as the facts may*
23 *warrant.*

24 (e) *If the Attorney General declines, or is unable, to petition the*
25 *appropriate superior court for issuance of an injunction within 30*
26 *days from the department's request, pursuant to subdivision (c)*
27 *or (d), the district attorney or county counsel of that county may,*
28 *at the department's request, petition the superior court for issuance*
29 *of the injunction specified in subdivision (c) or (d).*

30 ~~SEC. 4.~~

31 SEC. 6. Section 42847.5 of the Public Resources Code is
32 amended to read:

33 42847.5. (a) Any costs or damages incurred by the department
34 under this article constitute a lien upon the real property owned
35 by any responsible party that is subject to the remedial action. The
36 lien shall attach regardless of whether the responsible party is
37 insolvent. A lien imposed under this section shall arise at the time
38 costs are first incurred by the department with respect to a remedial
39 action at the site.

1 (b) A lien established under this section shall be subject to the
2 notice and hearing procedures required by due process of the law.
3 Prior to imposing the lien, the department shall send the property
4 owner via certified mail a “Notice of Intent to Place A Lien” letter.
5 This letter shall provide that the owner, within 14 calendar days
6 from the date of receipt of the letter, may object to the imposition
7 of the lien either in writing or through an informal proceeding
8 before a neutral official. This neutral official shall be the director
9 or his or her designee, who may not have had any prior
10 involvement with the site. The issue before the neutral official
11 shall be whether the department has a reasonable basis for its
12 determination that the statutory elements for lien placement under
13 this section are satisfied. During this proceeding the property owner
14 may present information or submit documents, or both, to establish
15 that the department should not place a lien as proposed. The neutral
16 official shall ensure that a record of the proceeding is made, and
17 shall issue a written decision. The decision shall state whether the
18 property owner has established any issue of fact or law to alter the
19 department’s intention to file a lien, and the basis for the decision.

20 (c) The department may not be considered a responsible party
21 for a remediated site merely because a lien is imposed under this
22 section.

23 (d) A lien imposed under this section shall continue until the
24 liability for the costs or damages incurred under this article, or a
25 judgment against the responsible party, is satisfied. However, if it
26 is determined by a court that the judgment against the responsible
27 party will not be satisfied, the department may exercise its rights
28 under the lien.

29 (e) A lien imposed under this section shall have the force and
30 effect of, and the priority of, a judgment lien upon its recordation
31 in the county in which the property subject to the lien is located.
32 The lien shall contain a legal description of the real property that
33 is subject to, or affected by, the remedial action, the assessor’s
34 parcel number, and the name of the owner of record, as shown on
35 the latest equalized assessment roll.

36 (f) All funds recovered under this section on behalf of the
37 department’s waste tire stabilization and abatement program shall
38 be deposited in the California Tire Recycling Management Fund
39 established under Section 42885.

1 ~~SEC. 5.~~

2 *SEC. 7.* Section 42851 of the Public Resources Code is
3 amended to read:

4 42851. (a) The department may serve an administrative
5 accusation to a person on whom civil liability may be imposed
6 pursuant to this chapter. The accusation shall allege the acts or
7 failures to act that constitute a basis for liability and the amount
8 of the proposed civil liability. The accusation shall be served by
9 personal service or certified mail and shall inform the party of the
10 right to a hearing.

11 (b) Upon receipt by the department of a notice of defense to the
12 accusation, the department shall, within 15 days, schedule a hearing
13 before the director. The hearing shall be held within 60 days of
14 the scheduling date, unless the party waives the right to a hearing.

15 (c) If the party waives the right to a hearing, the department
16 shall issue an order setting liability in the amount proposed in the
17 accusation unless the department and the party have entered into
18 a settlement agreement, in which case the department shall issue
19 an order setting liability in the amount specified in the settlement
20 agreement. If the party has waived the right to a hearing or if the
21 department and the party have entered into a settlement agreement,
22 the order shall not be subject to review by any court or agency.

23 (d) After conducting the hearing, the director shall, within 60
24 days after the case is submitted, issue a decision, including an
25 order setting the amount of civil penalty to be imposed, if any.

26 ~~SEC. 6.~~

27 *SEC. 8.* Section 42852 of the Public Resources Code is
28 amended to read:

29 42852. (a) A hearing required under this chapter shall be
30 conducted by the director in accordance with the informal hearing
31 requirements specified in Chapter 4.5 (commencing with Section
32 11400) of Part 1 of Division 3 of Title 2 of the Government Code,
33 but the department may initially file a hearing pursuant to, or a
34 convert a hearing to be conducted pursuant to, the formal hearing
35 requirements specified in Chapter 5 (commencing with Section
36 11500) of Part 1 of Division 3 of Title 2 of the Government Code.
37 In making a decision regarding a denial, revocation, suspension,
38 or penalty, the director shall take into consideration the nature,
39 circumstances, extent, and gravity of the violation, the violator's
40 past and present efforts to prevent, abate, or clean up conditions

1 posing a threat to the public health or safety or the environment,
2 the violator's ability to pay the proposed civil penalty, and the
3 prophylactic effect that imposition of the proposed penalty will
4 have on both the violator and on the regulated community as a
5 whole.

6 *(b) For a period of up to one year, following the issuance of a*
7 *final decision by either the director or an administrative law judge,*
8 *if the hearing is converted to a formal hearing, that is based on a*
9 *finding of a violation of this chapter or of any regulation adopted*
10 *pursuant to this chapter, the department shall perform inspections*
11 *at the location of the violation that are in addition to those*
12 *inspections otherwise required by this chapter or by any*
13 *regulations adopted pursuant to this chapter, at a frequency*
14 *determined by the department.*

15 *(c) The responding party shall reimburse the department for*
16 *the cost of the additional inspections conducted pursuant to*
17 *subdivision (b), including the cost of preparing for the inspection,*
18 *traveling to and from the inspection, and writing up the inspection*
19 *reports, at the same amounts that are determined annually and*
20 *approved for enforcement agents to be charged by the department*
21 *for purposes of the enforcement of this chapter.*

22 ~~SEC. 7.~~

23 *SEC. 9.* Section 42853 of the Public Resources Code is
24 amended to read:

25 42853. Orders setting civil liability issued under this section
26 shall become effective and final upon issuance thereof, and
27 payment shall be made within 30 days of issuance, unless otherwise
28 ordered by the director. Copies of these orders shall be served by
29 personal service or by certified mail upon the party served with
30 the accusation and upon other persons who appeared at the hearing
31 and requested a copy.

32 ~~SEC. 8.~~

33 *SEC. 10.* Section 42854 of the Public Resources Code is
34 amended to read:

35 42854. (a) Within 30 days after service of a copy of a decision
36 issued by the director, a person so served may file with the superior
37 court a petition for writ of mandate for review of the decision. Any
38 person who fails to file the petition within the 30-day period may
39 not challenge the reasonableness or validity of a decision or order

1 of the director in a judicial proceeding brought to enforce the
2 decision or order or for other remedies.

3 (b) Except as otherwise provided in this section, Section 1094.5
4 of the Code of Civil Procedure governs any proceedings conducted
5 pursuant to this subdivision. In all proceedings pursuant to this
6 subdivision, the court shall uphold the decision of the director if
7 the decision is based upon substantial evidence in the whole record.

8 (c) The filing of a petition for writ of mandate does not stay any
9 corrective action required pursuant to this chapter or the accrual
10 of any penalties assessed pursuant to this chapter.

11 (d) This section does not prohibit the court from granting any
12 appropriate relief within its jurisdiction.

13 *SEC. 11. Section 42872 of the Public Resources Code is*
14 *amended to read:*

15 42872. The tire recycling program may include, but is not
16 limited to, the following:

17 (a) The awarding of grants, subsidies, *rebates*, and loans to
18 businesses or other enterprises, and public entities, involved in
19 activities and applications that result in reduced landfill disposal
20 of used whole tires and reduced illegal disposal or stockpiling of
21 used whole tires.

22 (b) The awarding of grants for research aimed at developing
23 technologies or improving current activities and applications that
24 result in reduced landfill disposal of used whole tires.

25 (c) The awarding of grants or loans for the evaluation, planning,
26 design, improvement, and implementation of alternative used tire
27 recycling programs in this state.

28 (d) The awarding of grants, *subsidies*, *rebates*, or loans to
29 businesses ~~which~~ *that* shred used tires for purposes of recycling.

30 (e) Development and implementation of an information and
31 education program, including seminars and conferences, aimed at
32 promoting alternatives to the landfill disposal of used whole tires.

33 (f) The awarding of grants or loans to tire shredding programs
34 at authorized landfills, solid waste transfer stations, or dedicated
35 tire shredding facilities, including the direct purchase of shredders
36 or financing of shredder contracts.

37 (g) *Development and implementation of a waste tire incentive*
38 *payment program to promote increased demand for waste tires*
39 *recycled in this state and to promote higher valued products.*

1 *SEC. 12. Section 42873 of the Public Resources Code is*
2 *amended to read:*

3 42873. (a) Activities eligible for funding under this article,
4 that reduce, or that are designed to reduce or promote the reduction
5 of, landfill disposal of used whole tires, may include the following:

- 6 (1) Polymer treatment.
- 7 (2) Rubber reclaiming and crumb rubber production.
- 8 (3) Retreading.
- 9 (4) Shredding.
- 10 (5) The manufacture of products made from used tires,
11 including, but not limited to, all of the following:
 - 12 (A) Rubberized asphalt, asphalt rubber, modified binders, and
13 chip seals.
 - 14 (B) Playground equipment.
 - 15 (C) Crash barriers.
 - 16 (D) Erosion control materials.
 - 17 (E) Nonslip floor and track surfacing.
 - 18 (F) Oilspill recovery equipment.
 - 19 (G) Roofing adhesives.
 - 20 (H) Tire-derived aggregate applications, including lightweight
21 fill and vibration mitigation.
 - 22 (I) Molded products.
 - 23 (J) Products using recycling rubber and other materials, such
24 as plastic.
 - 25 (K) Paint and coatings.

26 (6) Other environmentally safe applications or treatments
27 determined to be appropriate by the board.

28 (b) (1) The board may not expend funds for an activity that
29 provides support or research for the incineration of tires. For the
30 purposes of this article, incineration of tires, includes, but is not
31 limited to, fuel feed system development, fuel sizing analysis, and
32 capacity and production optimization.

33 (2) Paragraph (1) does not affect the permitting or regulation
34 of facilities that engage in the incineration of tires.

35 *SEC. 13. Section 42885.5 of the Public Resources Code is*
36 *amended to read:*

37 42885.5. (a) The department shall adopt a five-year plan, which
38 shall be updated every two years, to establish goals and priorities
39 for the waste tire program and each program element.

(b) On or before July 1, 2001, and every two years thereafter, the department shall submit the adopted five-year plan to the appropriate policy and fiscal committees of the Legislature. The department shall include in the plan, programmatic and fiscal issues including, but not limited to, the hierarchy used by the department to maximize productive uses of waste and used tires, and the performance objectives and measurement criteria used by the department to evaluate the success of its waste and used tire recycling program. Additionally, the plan shall describe each program element's effectiveness, based upon performance measures developed by the department, including, but not limited to, the following:

(1) Enforcement and regulations relating to the storage of waste and used tires.

(2) Cleanup, abatement, or other remedial action related to waste tire stockpiles throughout the state.

(3) Research directed at promoting and developing alternatives to the landfill disposal of waste tires.

(4) Market development and new technology activities for used tires and waste tires.

(5) The waste and used tire hauler program, *the registration of, and reporting by, tire brokers*, and *the manifest system*.

(6) A description of the grants, loans, contracts, and other expenditures proposed to be made by the department under the tire recycling program.

(7) Until June 30, 2015, the grant program authorized under Section 42872.5 to encourage the use of waste tires, including, but not limited to, rubberized asphalt concrete technology, in public works projects.

(8) Border region activities, conducted in coordination with the California Environmental Protection Agency, including, but not limited to, all of the following:

(A) Training programs to assist Mexican waste and used tire haulers to meet the requirements for hauling those tires in California.

(B) Environmental education training.

(C) Development of a waste tire abatement plan, with the appropriate government entities of California and Mexico.

1 (D) Tracking both the legal and illegal waste and used tire flow
2 across the border and recommended revisions to the waste tire
3 policies of California and Mexico.

4 (E) Coordination with businesses operating in the border region
5 and with Mexico, with regard to applying the same environmental
6 and control requirements throughout the border region.

7 (F) Development of projects in Mexico in the California-Mexico
8 border region, as defined by the La Paz Agreement, that include,
9 but are not limited to, education, infrastructure, mitigation, cleanup,
10 prevention, reuse, and recycling projects, that address the
11 movement of used tires from California to Mexico that are
12 eventually disposed of in California.

13 (c) The department shall base the budget for the California Tire
14 Recycling Act and program funding on the plan.

15 (d) The plan may not propose financial or other support that
16 promotes, or provides for research for the incineration of tires.

17 *SEC. 14. Section 42950 of the Public Resources Code is*
18 *amended to read:*

19 42950. For purposes of this chapter, the following definitions
20 apply:

21 (a) “Agricultural purposes” means the use of waste tires as
22 bumpers on agricultural equipment or as a ballast to maintain
23 covers or structures at an agricultural site.

24 (b) (1) “Altered waste tire” means a waste tire that has been
25 baled, shredded, chopped, or split apart. “Altered waste tire” does
26 not mean crumb rubber.

27 (2) “Alteration” or “altering,” with reference to a waste tire,
28 means an action that produces an altered waste tire.

29 (c) “Applicant” means ~~any~~ a person seeking to register as a
30 waste tire hauler.

31 (d) “Baled tire” means either a whole or an altered tire that has
32 been compressed and then secured with a binding material for the
33 purpose of reducing its volume.

34 (e) “Common carrier” means a “common carrier,” as defined
35 in Section 211 of the Public Utilities Code.

36 (f) “Crumb rubber” means rubber granules derived from a waste
37 tire that are less than or one-quarter inch or six millimeters in size.

38 (g) “Repairable tire” means a worn, damaged, or defective tire
39 that is retreadable, recappable, or regrooveable, or that can be
40 otherwise repaired to return the tire to use as a vehicle tire, and

1 that meets the applicable requirements of the Vehicle Code and
2 Title 13 of the California Code of Regulations.

3 (h) “Scrap tire” means a worn, damaged, or defective tire that
4 is not a repairable tire.

5 (i) *“Tire broker” means a person that arranges for the shipment*
6 *of used or waste tires to or from a site located within the state, or*
7 *through the state, as that term may be further defined by the*
8 *department by regulation.*

9 ~~(i)~~

10 (j) “Tire derived product” means material that meets both of
11 the following requirements:

12 (1) Is derived from a process using waste tires or waste tire
13 equivalents as a feedstock. A process using waste tires or waste
14 tire equivalents includes, but is not limited to, shredding, crumbing,
15 or chipping.

16 (2) Has been sold and removed from the processing facility.

17 ~~(j)~~

18 (k) “Used tire” means a tire that meets both of the following
19 requirements:

20 (1) The tire is no longer mounted on a vehicle but is still suitable
21 for use as a vehicle tire.

22 (2) The tire meets the applicable requirements of the Vehicle
23 Code and of Title 13 of the California Code of Regulations.

24 ~~(k)~~

25 (l) “Waste tire” means a tire that is no longer mounted on a
26 vehicle and is no longer suitable for use as a vehicle tire due to
27 wear, damage, or deviation from the manufacturer’s original
28 specifications. A waste tire includes a repairable tire, scrap tire,
29 and altered waste tire, but does not include a tire derived product,
30 crumb rubber, or a used tire.

31 ~~(l)~~

32 (m) “Waste tire generator” or “waste tire generating business”
33 means ~~any~~ a person as defined by Section 40170 whose act or
34 process produces waste tires as defined in Section 42807, causes
35 a waste tire hauler to transport those waste tires, or otherwise
36 causes waste tires to become subject to regulation. “Waste tire
37 generator” or “waste tire generating business” does not include a
38 person who transports 10 or fewer waste tires at any one time.

39 SEC. 15. Section 42952 of the Public Resources Code is
40 amended to read:

1 42952. (a) Except as provided in Section 42954, ~~any~~ a person
2 engaged in transporting waste or used tires shall comply with all
3 of the following requirements:

4 ~~(a)~~

5 (1) The person shall be registered as a waste and used tire hauler
6 with the ~~board~~ department.

7 ~~(b)~~

8 (2) The person shall not advertise or represent himself or herself
9 as being in the business of a waste and used tire hauler without
10 being registered as a waste and used tire hauler by the ~~board~~
11 department.

12 (b) A tire broker shall register with the department.

13 SEC. 16. Section 42957 is added to the Public Resources Code,
14 to read:

15 42957. An application for a new or renewed tire broker
16 registration shall be made in a format approved by the department.
17 The application shall include, but not be limited to, all of the
18 following:

19 (a) The business name under which the tire broker operates,
20 and the business owner's name, address, and telephone number.

21 (b) Other business names under which the tire broker operates.

22 (c) Any additional information required by the department.

23 ~~SEC. 9.~~

24 SEC. 17. Section 42960 of the Public Resources Code is
25 amended to read:

26 42960. (a) The department may suspend, revoke, or deny a
27 waste and used tire hauler registration for a period of up to three
28 years, by serving a statement of issue in accordance with Section
29 42961, if the applicant for, or holder of, the registration does any
30 of the following:

31 (1) Commits more than three violations of, or fails to comply
32 with any requirements of, this chapter or Chapter 16 (commencing
33 with Section 42800), or the regulations adopted pursuant to those
34 provisions, within a one-year period.

35 (2) Commits, aids, or abets any violation of this chapter or
36 Chapter 16 (commencing with Section 42800), or the regulations
37 adopted pursuant to those provisions, or permits an agent to do so,
38 and the department determines that the violation poses an
39 immediate threat of harm to public safety or to the environment.

(3) Commits, aids, or abets a failure to comply with this chapter or Chapter 16 (commencing with Section 42800), or the regulations adopted pursuant to those provisions, or permits an agent to do so, and the department determines that the failure to comply shows a repeating or recurring occurrence or that the failure to comply may pose a threat to public health or safety or the environment.

(4) Misrepresents or fails to disclose material factual information, or other required information in the application for a waste and used tire hauler registration, or misrepresents or omits factual information on any manifest more than three times in one year.

(b) The department may suspend, revoke, or deny a waste and used tire hauler registration for a period of three years to five years, or may suspend, revoke, or deny a waste and used tire hauler registration permanently, in accordance with the procedures specified in subdivision (a), under any of the following circumstances:

(1) The hauler's registration has been previously revoked or denied for any violation specified in subdivision (a).

(2) The hauler has been previously fined pursuant to this chapter or Chapter 16 (commencing with Section 42800).

(3) The department determines that the hauler's operations pose a significant threat to public health and safety.

~~SEC. 10.~~

SEC. 18. Section 42961 of the Public Resources Code is repealed.

~~SEC. 11.~~

SEC. 19. Section 42961 is added to the Public Resources Code, to read:

42961. (a) The department shall notify the applicant for, or holder of, the registration of the revocation, suspension, or denial of the registration and the effective date of the suspension and revocation and, at the same time, shall serve the person with a statement of issues.

(b) Upon a request for a hearing by the department from the applicant for, or the holder of, the registration, the department shall, within 15 days, schedule a hearing before the director. The hearing shall be held within 90 days after that scheduling date, unless a later date is agreed to by both the department and the applicant for, or the holder of, the registration.

1 (c) A revocation or suspension issued pursuant to Section 42960
2 shall remain in effect until the hearing is completed and the
3 department's director has issued a decision.

4 (d) After conducting the hearing, the director shall, within 60
5 days after the case is submitted, issue a decision, including an
6 order setting for the issuance, suspension, revocation, or denial of
7 the permit. If the decision is not transmitted within this period, the
8 revocation or suspension shall be of no further effect.

9 ~~SEC. 12.~~

10 SEC. 20. Section 42961.1 is added to the Public Resources
11 Code, to read:

12 42961.1. A hearing required under this chapter shall be
13 conducted by the director in accordance with the informal hearing
14 requirements specified in Chapter 4.5 (commencing with Section
15 11400) of Part 1 of Division 3 of Title 2 of the Government Code,
16 but the department may initially file a hearing pursuant to, or
17 convert a hearing to be conducted pursuant to, the formal hearing
18 requirements specified in Chapter 5 (commencing with Section
19 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

20 SEC. 21. Section 42961.7 is added to the Public Resources
21 Code, to read:

22 42961.7. (a) A tire broker shall submit periodic information
23 to the department on the used or waste tires arranged to be shipped
24 by the tire broker to, from, or through the state.

25 (b) The department shall specify the schedule for the submission
26 of the information required by subdivision (a) and the manner in
27 which the information shall be provided to the department.